No. 1. 10 Cents.

SERIES OF CRITIC ESSAYS.

A PLEA FOR AMERICAN HOME-RULE CONTRA ROME-RULE,

ULTRAMONTANISM IS UNLAWFUL IN THE U. S.

On Account OF THE

McGLYNN CASE

PHILADELPHIA, 1887.

ADOLF HEPNER.

ULTRAMONTANISM

IS UNLAWFUL

IN THE UNITED STATES.

A PLEA FOR

American Home-Rule

CONTRA

Rome-Rule,

ON ACCOUNT OF THE

McGLYNN CASE,

By ADOLF HEPNER.

PHILADELPHIA:
1887

262.13
H36u
Rattermann

I.

IRISH ROME-RULE AND AMERICAN HOME-RULE.

I belong to that line of German free-thinkers, to whom the idea, such as in countries of English tongue is represented by many champions of liberty, of amalgamation of political liberty and religious slavery appears something strange and nearly inconceivable.

I freely confess, that my appreciation of Ireland's struggle for political liberty always was counterbalanced by consideration of the fact, that, under existing circumstances, Irish "*Home-rule*" amounts to Irish "*Rome-rule,*" an exchange merely of hand-kissing the Lady Queen for kneeling before the "ultra-montane" Infallible Master.

Having the choice only between these two situations, I should think, that such exchange amounts to very little in value; that price for getting rid of the British yoke seems to me, at least, too high, as to warrant the use of dynamite, or even to excuse—as did the great Irish leader, Mr. Michael Davitt, in his farewell reception at New York last January — shooting, by evicted tenants, subordinate bailiffs, while acting under the hard pressure of official duty.

Irish Democracy has its own peculiar moral code as well as its exceptional idea of "Home-rule"; they are claiming the right of "Home-rule" for *themselves*, while, at the same time, advising to citizens of other countries, to *renounce* it.

Such is the case in the noted affair of the venerable Dr. McGlynn, the suspended pastor of the New York St. Stephen's Church, ordered by the Church authorities, to start for Rome and to make a defense for his speeches on the land question and his supporting the Henry George party.

Mr. Henry George, in advising Dr. McGlynn, not to go to Rome, gave his reasons as follows:

An American citizen should not allow himself to be subjected, as to the rights or duties of his citizenship, to foreign command. In matters of faith the Catholic holds, that he must submit to the

p 44888

Church, but in matters beyond the sphere of faith the dictum of ecclesiastical authority has no more importance, than is due to the character of the man and the reasonableness of the opinion.

In opposition to Mr. Henry George's advice, Mr. Michael Davitt deemed it opportune, that the suspended pastor should go to Rome, to present his case and defend his cause before the papal authority.

The difference between Mr. George's and Mr. Davitt's standpoint may be defined thus:

Mr. George takes the dignified stand of a conscious American citizen, but his view is contradictory to true Catholicism; while, in Mr. Davitt's opinion, religious devotion is paramount to all other rights and duties.

Mr. George demands *American Home-rule*, while the celebrated leader of Irish "Home-rule" has the kindness of suggesting, we should supplant, in this country, *Rome-rule* to "Home-rule".

So the difference between George and Davitt comes out to the question:

Shall we have, in this country, *American Home-rule* or *Irish Rome-rule?*

In Ireland, Mr. Davitt's mother-country, he is struggling for "Home-rule", and to this country, enjoying fortunately Home-rule for more than 100 years since, he recommends to exchange our *Home-rule* for *Rome-rule.* How could a political leader, as Mr. Davitt is, ever think for a moment, Americans would turn such fools?

I wish to state here, how Mr. George's opinion is un-Catholic and Mr. Davitt's view un-American, and between those two positions I wish to erect, as a mark to those doubting as to what line may be the right one, *the United States statute law*, overlooked by Mr. George and unknown to Mr. Davitt.

II.

MR. GEORGE'S ERROR AS TO TRUE CATHOLICISM.

Dr. McGlynn believes, Mr. George alike, that the land belongs to the people, while the Church, based on the principle, that it is God, who makes the one rich and happy and the other ones poor, sick and shiftless, cannot stand such a dangerous theory as represented by Mr. George's land-communism. If it were God's will, to have let enjoy all his children an equal share of the fortunes of nature and the commodities afforded by them, he scarcely would have bethought himself so many thousand years and waited for Mr. George's advice. It is God who consented to the social state of inequality, otherwise he would have changed it ere long from his own, to wit, by inspiring the infallible chief of the Church, to model the social world after a new fashion.

Such is the logics of true Catholicism, and no man, deviating from these conclusions, can pretend of being a Catholic in the sense adopted by the infallible Church authority. From the stand-point of true Catholicism, the action of the "Propaganda," censuring Rev. McGlynn for his political behavior, is fully justifiable. Catholicism cannot suffer to be divided in "stalwarts" and "half-breeds." There is only *one* Catholicism, unite and indivisible, dependent upon the word of God as commented upon by his Infallible Representant on earth. If this Representant, the Pope, as Chief of the "Propaganda Society," declares common ownership in land a nuisance to religion, because of that theory would lead to rank communism and destroy the inequality of men, such as instituted and maintained by God's will, such proclamation of the Pope must be valid to all true Catholics.

Mr. George, to the contrary, invents an artificial division between "matters of faith," as to which a Catholic must submit to Church authority, and "matters beyond the sphere of faith," left with the free judgment of any Catholic. But in reality *true Catholicism comprises and involves all conditions of life, moral, social and political.* True Catholicism cannot afford it, to let men distinguish religious duties from other ones, because *all*

human duties are religious; what you are doing, you have to do in accordance with religion, nothing contrary to religion; if your purposes be incompatible with true religion, you should have let them undone. From this standpoint Catholicism cannot acknowledge that mark, erected by Mr. George, between "religious" duties and the "rights of American citizenship." For God is the King of the Kings and States, and obeyance to Him, that is to say, to his Infallible Chief Representant on earth, the Pope, *is paramount to all other rights and duties.* Since common ownership in land and supporting Mr. George, the advocate of that theory, for the mayoralty of New York, is contrary to the interests of the Catholic Church, Rev. Dr. McGlynn justly was to be suspended from his pastorate. Catholicism means no joke, but business. As far as the action of the Roman Church, in suspending Rev. McGlynn, is concerned, the Church is not wanting logics. If Catholics choose to have an Infallible Pope, they must undergo the infallible consequences of their infallible choice, too.

III.

THE LEGAL POINT OF THE CASE.

Yet, whether or not Dr. McGlynn should go to Rome, to account for his behavior, is a question, that concerns not only Catholics, but all interested in maintaining the dignity of American citizenship. It amounts to the question, whether or not an American citizen could and should be enjoined, by a *foreign power*, from exercising his rights of citizenship; it amounts to the question, whether or not an American citizen could and should be punished by a *foreign power* for doing so.

Rome, indeed, at all times, assumed that power of ruling Catholics of all countries, not only as to their creed, but as far as social and political life is concerned. And according to the above stated principles of true Catholicism, such a course is quite natural. Mr. George, thus, though right in denying Rome's usurpatory demands, failed to hit the mark as far as he admitted Rome's right to rule Americans, *at least*, as to their *faith*.

If such right be admitted, all other demands of Rome must be fulfilled, too; for all our actions may be referred to religious statutes.

There is no other chance of getting rid of Rome-rule, than *by denying to Rome whatever right of interference with American affairs*, as to political actions of the citizens as well as to the control of that immense Church property. To those doubting as to the legality of such a course I should like to show, that the delineators and signers of the "Declaration of Independence," when they declared, that this country should be "free and independent,' did not mean to exchange British yoke for Roman. They did not entertain for a moment the idea that a country could be "independent" at the same time millions of its citizens being "dependent" upon Rome. "Independence" of the country without "independence" of its citizens from a foreign power, is too a ridiculous phrase as to be insinuated to the great creators of this Republic. I wish to prove, that the United States have the right to legislate for *wholly excluding from this country the power of Rome of appointing persons, owing allegiance to the U. States, American bishops and priests, who, on account of their papal commission, are subject to strict obedience to the Vatican.*

IV.

THE OATH OF ALLEGIANCE.

I say, Ultramontanism is unlawful in the U. States, and in proof thereof I refer to Section 2165 of the Rev. Statutes of the U. S., dealing with the oath of allegiance, to be taken by all foreigners making an application for naturalization.

When I made the first application for naturalization, I had to take, according to Section 2165 of the Rev. Statutes, the following oath:

"I do declare on oath, that it is *bona fide* my intention, to become a citizen of the U. States, and *to renounce forever all allegiance and fidelity to any foreign Prince, Potentate, State or Sovereignty whatever*, and particularly to the Emperor of Germany, of whom I am a subject."

This oath, provided for by Section 2165 of the Rev. Statutes, implies, that no person is to be admitted to American citizenship, unless he or she

"*Renounces forever all allegiance and fidelity to any foreign Sovereignty*".

This oath is to be repeated by the applicant for naturalization at the time he is getting the certificate of citizenship, as may be seen from the following form:

UNITED STATES OF AMERICA.

Be it remembered, that at the Court of —, for the County of — held at —, in the Commonwealth of —, in the United States of America, on the —th day of —, in the year of our Lord, one thousand eight hundred and eighty-seven, N. N., a native of X., exhibited a petition, praying to be admitted to become a citizen of the United States; and it appearing to the said Court, that he had declared an oath, before the Clerk of the Court of —, on the —th day A. D. 188., that it was bonafide his intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign prince, potentate, state or sovereignty whatsoever, and particularly to the — of —, of whom he was at that time a subject; and the said N. N. having on his solemn oath declared and also made proof thereof agreeably to law, to the satisfaction of the Court, that he resided one year and upward

within the State of—, and within the United States of America upward of five years immediately preceding his application; and that during that time he had behaved as a man of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same; and having declared on his solemn oath, before the said Court, that he would support the Constitution of the United States, and that he did *absolutely and entirely renounce and abjure all allegiance and fidelity to every foreign prince, potentate, state or sovereignty whatsoever*, and particulary to the — of —, of whom he was before a subject; and being in all respects complied with the laws in regard to naturalization, thereupon the Court admitted the said N. N. to become a citizen of the United States, and ordered all the proceedings aforesaid to be recorded by the Prothonotary of the said Court, which was done accordingly.

In witness whereof, I have hereunto affixed the seal of the said Court, at —, this —th day of —, in the year one thousand eight hundred and eighty-seven, and of the *Sovereignty and Independence* of the United States of America the one hundred and eleventh. P. P., PROTHONOTARY.

* * *

And that disallowance of allegiance and fidelity to any foreign Sovereignty is appliable to the citizen the much more than to the candidate for citizenship and to the native born citizen the much more than the foreign born.

V.

AN INJUNCTION IS DEMANDED.

As the case now stands, a foreign Sovereignty, the Pope, summoned Rev. Dr McGlynn to Rome, to make a defense for his political speeches, his political creed and his political action as advocate of Henry George's candidacy for the mayoralty of New York. It is no matter whether or not Dr. McGlynn by his behavior offended against statutes of Catholic religion. I should think he is an offender in that sense explained above. But as an American citizen *he should be enjoined, on account of Section* 2165 *of the Rev. St., from starting for Rome in obeyance to papal order*, as I might be enjoined from going to Berlin, should the Emperor of Germany summon me there. The point is not here, as Mr. George thinks, whether or not an American citizen should be subjected, as to his political attitude, to foreign command, but whether or not American citizens be allowed to be subjected to *any command whatever* of a foreign Sovereignty, *irrespective of the matter concerned of*. Section 2165 of the Rev. St. makes no difference between orders pertaining to politics and to other conditions of life. It simply refrains us from submitting to *any order whatever* from a foreign Prince, Potentate, Sovereign or State, whether that order may refer to politics or to religion.

VI.

IS THE POPE A SOVEREIGN?

I know the objection I likely am to be met with: "The Pope is not a Sovereign in the sense of Section 2165 of the Rev. St." But, surely, he is.

The U. S., of course, do not entertain diplomatic relations with the Vatican, but other States do so, recognizing the Pope as a Sovereign, likewise as at the time, he was in possession of "temporal power." The Pope has his Embassadors, called "Nuncio's," accredited not only at governments of Catholic States, and receives Embassadors of the Powers, accredited at the Vatican, any other Sovereign alike. It is generally known, that the Pope, two years ago, endeavored to institute diplomatic intercourse between the Government of the United States and the Vatican, and that his American bishops are not yet out of hope finally to reach that purpose. On the other side, Great Britain is about to restore the diplomatic intercourse with the Vatican.

The decision of the question, whether or not the Pope is to be considered a Sovereign, does not depend on the attitude, towards the Vatican, of the United States *alone*, but on *International* public opinion, that is to say, on the attitude of the powers in general.

And in this respect it may be noted, that the Pope, by mutual diplomatic intercourse, is considered a Sovereign by the following States: Austria-Hungary, Bavaria and Prussia, Belgium, France, Portugal, Spain, also Bolivia, Brazil, Costarica, Ecuador and Peru.

Moreover, the Pope never acknowledged the present state of things, that is to say, his depossession of territory, but in all his official allocutions gave expression to the hope of being restored to the former "temporal power" of papacy. That depossession of territory notwithstanding, the Pope, acknowledged, as to his Sovereignty, by a dozen of European and American States, considers himself a Sovereign; and in this capacity or dignity he is acknowledged by many millions of believers in all countries, and by a million of American citizens, at least. By reason of these

facts it may be said, that the Pope, according to International Law, is to be held yet a Sovereign.

As to the actual state of the political condition of the Pope, the following may serve for explanation:

Although the Pope is now depossessed of territory, it was expressly declared by the Italian Government, in the terms of the RoyalDecree of October 9, 1870, that the "*Pope should preserve the honors of a Sovereign and all other prerogatives of a reigning Prince.*" So he confers yet to citizens of all countries the rank of "nobility," the title of "Monsignore," and 4 degrees of orders. — After Rome was taken possession of by the Italian troops, the Pope was guaranteed of his sovereign rights, allowed to *retain his guard* and provided with an income of 3,225,000 francs a year. He was to keep the Vatican, the Church of Santa Maria Maggiore, Castel Gondolfio and their despondencies. These places were exempted from taxation and *from common law jurisdiction.* The Pope's correspondence is *free.* Seminaries and other Catholic institutions derive their authority from the Pope alone.

Dr. Geffken, professor of International Law at the university of Strassburg, Alsace, indeed, in his newest edition of Heffter's "International Law" (*Völkerrecht*), from the fact, that the above alleged decree of the Italian Government lacks any international guarantee of the powers, concludes, that such decree is far from preserving to the Pope his former sovereignty. That decree depending upon the good will of the Italian Government alone, no foreign government could prevent the Italian power from rescinding it.

To this I have to remark:

The fact, that 12 States are yet holding now diplomatic intercourse with the Pope, his depossession of territory notwithstanding, shows, that before the year 1870 their legacies at the Vatican were not required on account of political or commercial relations with that small "Church State" of 750 square miles and 730,000 inhabitants, but because of the Pope's potential and supreme control of millions of people beyond the borders of the "Church State." And that state of things, the Pope's capacity of a *Potentate,* since he was declared "infallible" not only did not get weakened, but, to the contrary, got strengthened in every way, as we clearly saw in the struggle of the Prussian Government with Ultramontanism these 15 years.

The Pope's sovereignty was not abrogated or annulled by his be-

ing depossessed of territory, because of that so-called "temporal power" not having been the main-ingredient of his sovereignty, but his capacity as head of the Church.

That capacity secured to him the precedence over all sovereigns, not only Catholic ones, a precedence that extended and is extending yet to his nuncios, to wit, over all embassadors.

The exemption of the Pope and of his surroundings from common law jurisdiction, that is to say, his extra-territoriality, connected with the continuance of his right, to send and receive embassadors, constitute, in the full sense of the traditional international term, his sovereignty. The extension or restriction of the political or military power of the Pope has nothing to do with his sovereignty, because the latter is due to his spiritual power, to the fact, that he rules millions of people without assistance of "temporal power."

I cannot concede to Dr. Geffken's opinion, that the Pope's sovereignty now is of no international character, but at the mercy of the Italian Government, because of the powers having not guaranteed Italy's promise of further respecting his sovereign rights.

The powers, then as now diplomatically represented at the Vatican, did not guarantee that Italian decree, because there was no need for any such steps. The powers certainly don't wish to eternalize the Pope's sovereignty. They are merely compelled, in behalf of their own interest, to remain on good terms with the Vatican and to use, for their political purpose, his influence over his followers.

At the moment, the sovereigns should think to be able of carrying the Catholic population of their States without papal assistance, they certainly will bid him good-bye, likewise as England, to the contrary, in her endeavor of completely subduing Ireland, now is trying to restore diplomatic intercourse with the Pope.

By reason of this consideration said powers yet stick to the Pope's sovereignty. They did not *want* to guarantee to the Pope his sovereignty, in order to be at liberty, to deny his sovereignty in future time. And they did not *need* guarantee his sovereignty, because the continuance of their diplomatic intercourse with him *constitutes in itself a full guarantee during the maintenance of such intercourse.* Should Italy try to deprive the Pope of his extra-territoriality, she would have to defend her course against 12 States, the legacies of which are enjoying there the right of extra-

territoriality, too; a venture, the outcome of which Italy scarcely ever would risk to.

I, therefore, am of the opinion, that the lack of international guarantee cannot, at this time, be held a prejudice to the continuance of the Pope's sovereignty in the sense of international law. And in consideration of that evidence, that the Pope is a sovereign, I recur to my assertion:

Ultramontanism is unlawful in the United States, on account of Section 2165 *of the Rev. Statutes*, and any person, acting under papal order, may be enjoined by our Federal Courts.

VII.

CONCLUSIONS.

1. An attempt should be made by one of Dr. McGlynn's New York friends, for instance, by Mr. H. George, to cause the issue of an order of a United States, Court to Dr. McGlynn, whereby the latter would have to show, why he should not be enjoined, on account of Section 2165 of the Rev. Statutes, from going to Rome in obeyance to papal order.

2. The case of Dr. McGlynn shall and must be the first and altogether, the last attempt of supplanting *Rome-rule in Home-rule of this country.*

3. When the chief advocate of Irish Home-rule, Mr. Michael Davitt, suggested inoculation of Rome-rule to the United States, to this country of a rather classical type of Home-rule, to this country of the celebrated "Monroe doctrine,"—he was certainly in misapprehension only of the gravity of the question.

But as to citizens of this country, non-Catholic citizens of this country, native born citizens of this country, rejoicing in the venerable Dr. McGlynn being ordered to Rome, to account for exercising his right of American citizenship,—I, a "foreign" born citizen, have only one expression:

Traitors to the Independence of the country!

3 0112 073228329

Two New Books, by the same author, to appear next weeks.

I.

Extra-territorial Criminal Jurisdiction

and its effects on American Citizens.

BY ADOLF HEPNER.

CONTENTS.

Chapter I.

Attitude of the Government of the United States.

A. Declaration of the President of the U S. on Extra-territorial Criminal Jurisdiction.
B. The two important principles, laid down in the President's declaration.
C. Conclusions, to the negative, from the President's principles.
D. Circumstances not provided for by the President's declaration.
E. Restrictions as to the conclusions from the President's declaration.
F. Suggestions for future action.

Chapter II.

Founding "Extra-territorial Criminal Jurisdiction" on International Law.

A. A general view.
B. Extra-territorial legislation, as far as in accordance with International Law.
C. The 3 classes of "Extra-territorial Criminal Jurisdiction" under authority of International Law:
   a) for self-defense and safety of the State;
   b) on mutual consent of the States;
   c) in the interest of mankind
D. Legislation of the United States on "Extra-territorial Criminal Jurisdiction under authority of International Law."
   President Cleveland's mistake is proven.

Chapter III.

French and German legislation on foreigners' foreign offences against the State.

A. Text of the main-laws.
B Synopsis of the French and German laws.
C. Criticism.

Chapter IV.

French law on crimes against the "Safety of the State" and its effect on American citizens.

Transgression, on the part of France, of the limits of justified self-defense.

Chapter V.

German law on crimes against the "Safety of the State" and its effect on American citizens.

A. Acts treacherous to the country.
B. Acts of high-treason
C. Effects of the "high-treason" law on American citizens.
D Position of American citizens towards those laws, transgressive of our rights.

Chapter VI.

A German special law, connected with Extra-territorial Criminal Jurisdiction, while not under authority of International Law.

A. Characteristics of special laws.
B. Text of the German "Dynamite-law."
C. Criticism.

PRICE, 50 CENTS.

This book contains quite new developments, fully unknown to American statesmen, and should be read by all engaged in politics, legislators and newspaper-men.

II.

Amerika's Hilfe an Deutschland 1870-71

(America's Help to Germany 1870-71.)

A selection from the Diplomatic Correspondence of the United States Embassador to Paris Hon. E.B. Washburne, on the France-German War, translated into German and accompanied by a critic introduction, in German and in English, by ADOLF HEPNER.

PRICE, 50 CENTS.

This book is published to the honor of the United States and will be met, on account of its interesting contents as well as its introduction, by a hearty welcome on the part of Americans and the adopted German citizens of this country.

FOR SALE AT ALL BOOKSTORES.